

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SENJU PHARMACEUTICAL CO., LTD.,
BAUSCH & LOMB INCORPORATED and
BAUSCH & LOMB PHARMA HOLDINGS
CORP.

Plaintiffs,

v.

Civil Action No. 1:16-cv-02270

HI-TECH PHARMACAL CO. INC., AKORN,
INC. and AKORN OPHTHALMICS, INC.,

Defendants.

STIPULATED CONSENT JUDGMENT AND INJUNCTION

Whereas the parties in the above-captioned action have agreed to terms and conditions representing a negotiated settlement of this action and have set forth those terms and conditions in a Confidential Settlement and License Agreement (the "Settlement Agreement"),

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, through their undersigned counsel of record, that:

1. In the event that the claims of Plaintiffs' U.S. Patent No. 8,129,431 ("the '431 patent"), U.S. Patent No. 8,669,290 ("the '290 patent"), U.S. Patent No. 8,754,131 ("the '131 patent"), U.S. Patent No. 8,871,813 ("the '813 patent"), U.S. Patent No. 8,927,606 ("the '606 patent"), and U.S. Patent No. 9,144,609 ("the '609 patent") asserted against Defendants are not held invalid or unenforceable and in the absence of a license or other authorization from

Plaintiffs, the '431, '290, '131, '813, '606, and '609 patents are valid, enforceable, and would be infringed by any unlicensed manufacture, use, offer for sale, sale, or importation in the United States of the generic product that is the subject of Defendants' Abbreviated New Drug Application Number 208985 (the "Licensed Product", as defined in the Settlement Agreement).

2. Defendants and anyone acting on the behalf of any of Defendants, except as expressly licensed by Plaintiffs in the Settlement Agreement, will be enjoined until the latest expiration of the '431, '290, '131, '813, '606, and '609 patents (or as otherwise provided in the Settlement Agreement) from (i) making, using, offering to sell, selling, or importing the Licensed Product in the United States, (ii) participating in the profits from making, using, offering to sell, selling, or importing the Licensed Product in the United States, and (iii) indemnifying others with respect to any making, using, offering to sell, selling, or importing the Licensed Product in the United States.

3. Notwithstanding any provision of the foregoing, Defendants shall be entitled to contest the infringement, validity and/or enforceability of the '431, '290, '131, '813, '606 and '609 patents in any future litigation, patent office proceeding, or otherwise over the '431, '290, '131, '813, '606 or '609 patents pertaining to any product that is not the Licensed Product and is not the subject of the Licensees' ANDA (as defined in the Settlement Agreement).

4. Each party will bear its own attorneys' fees and costs.

5. This Court will retain jurisdiction to enforce this Stipulated Consent Judgment and Injunction and the parties' related agreements resolving this matter.

6. Plaintiffs acknowledge that Defendants are entitled to maintain their Paragraph IV certification to the '431, '290, '131, '813, '606 and '609 patents pursuant to 21 C.F.R. §

314.94(a)(12)(v). Each Party acknowledges and agrees that the 30-month stay with respect to the approval of the Licensees' ANDA under 21 U.S.C. § 355(j)(5)(B)(iii) is hereby terminated.

7. The Clerk of Court is directed to enter this Stipulated Consent Judgment and Injunction.

Dated: January 25, 2017

PEPPER HAMILTON, LLP

s/ Melissa A. Chuderewicz

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Dated: January 25, 2017

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So Ordered this 30th day of January, 2017

Jerome B. Simandle
JEROME B. SIMANDLE
Chief U.S. District Judge